

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:22-cv-00083-MR**

VON LEE MCCLAMROCK,)
Plaintiff,)
vs.)
IREDELL COUNTY JAIL,) **ORDER**
Defendant.)

)

THIS MATTER is before the Court on the Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs.¹ [Doc. 1].

Federal courts can allow a litigant to prosecute or defend a civil action without paying the usual required fees if the litigant submits an affidavit containing a statement of the litigant's assets and demonstrating that he cannot afford to pay the required fees. 28 U.S.C. § 1915(a)(1). An impoverished plaintiff does not have to prove that he is "absolutely destitute to enjoy the benefit of the statute." Adkins v. E.I. Du Pont de Nemours & Co., 335 U.S. 331, 339 (1948). The individual seeking to proceed in forma

¹ This case was transferred to this Court from the Middle District of North Carolina. [Docs. 5-6]. That Court temporarily granted the Plaintiff's IFP Application, solely for the purpose of recommending the transfer. [See Doc. 3].

pauperis need only show indigence or poverty sufficient to demonstrate her inability to provide for the necessities of life while paying the costs of litigation. Id. at 339-40. If a court determines at any time that the allegation of poverty made in an in forma pauperis application is “untrue,” then the court “shall dismiss the case.” 28 U.S.C. § 1915(e)(2)(A).

The Plaintiff’s Application shows average monthly income for the past 12 months of \$918, consisting of \$500 in income from real property, and \$418 in public assistance. [Doc. 1 at 1-2]. The Plaintiff claims to have had no income for the past two years. [Id. at 2]. He claims that his spouse made \$4,000 gross monthly pay between May 2021 and an illegible date in 2021, and that she made \$9,000 gross monthly pay for an unspecified period. [Id.]. As assets, the Plaintiff claims to have \$6 in cash, a home worth \$45,000, and two motor vehicles for which he provides no estimated value. [Id. at 2-3]. The pages of the Application addressing the household’s average monthly expenses are partially obscured, and the Plaintiff has failed to provide a monthly expense total for himself or his spouse. [Id. at 4-5]. The Plaintiff does expect major changes to his monthly income, expenses, assets, or liabilities during the next 12 months, stating “disability.” [Id. at 5]. The Plaintiff does not expect to have expenses or attorney fees in conjunction with this lawsuit. [Id.]. He further explains his inability to pay the costs of

these proceedings as follows: "Waiting on disability case have not worked in 7 or 8 years." [Id.]

The Court is not satisfied that the Plaintiff is unable to pay the costs of these proceedings. His Application is incomplete and partially illegible, he fails to explain the source of his spouse's \$500 monthly income from real property, and he fails to fully explain his spouse's employment history for the past two years and her present lack of employment income. Accordingly, the Application will be denied without prejudice for the Plaintiff to pay the full filing fee or file an Amended Application to proceed in forma pauperis within 14 days of this Order. The failure to timely comply with this Order will result in this case's dismissal without prejudice and without further notice to the Plaintiff.

IT IS, THEREFORE, ORDERED that:

1. The Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. 1] is **DENIED**.
2. The Plaintiff shall have **fourteen (14) days** in which to pay the filing fee or file an Amended Application to proceed in forma pauperis (Long Form, AO 239).² If the Plaintiff fails to timely comply with this

² Application forms are available on the Court's website, <https://www.ncwd.uscourts.gov/local-forms/prose-forms>.

Order, this action will be dismissed without prejudice and without further notice.

IT IS SO ORDERED.

Signed: July 5, 2022



Martin Reidinger
Chief United States District Judge

